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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,287	04/19/2004	Ryota Ohashi	2244.0010002/TGD/RLP	9929

26111 7590 04/12/2006

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EXAMINER

LAZO, THOMAS E

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/826,287	Applicant(s) OHASHI ET AL.	
	Examiner Thomas E. Lazo	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 29-33 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/644,568.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/19/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishii (5,957,229). Ishii discloses in figures 1-6 and 38-40, a pump unit with a common housing 1,2, a first hydraulic pump PL and a second hydraulic pump PR respectively including a first pump shaft 3L and a second pump shaft 3R, both of which have rotating shaft centers substantially parallel to each other and both being of a variable displacement type located parallel to one another within the common housing 1,2, a first control shaft 3L and a second control shaft 3R designed for controlling the input/output flow rates of the first and second hydraulic pumps PL,PR, a first neutral position return mechanism (left side of figure 38) for urging the first control shaft 6L in such a direction as to return the first hydraulic pump PL to a neutral position thereof, a second neutral position return (right side of figure 38) mechanism for urging the second control shaft 6R in such a direction as to return the second hydraulic pump PR to a neutral position thereof, wherein the first and second control shafts 6L,6R protrude outwardly from the same side of the common housing 1,2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishii, as applied to claim 30, in view of Giere (4,934,252). Ishii discloses all of the claimed subject matter further including the first and second control shafts protruding outwardly from the same side of the common housing. Ishii does not disclose adjusting mechanisms for adjusting the first and second hydraulic pumps respectively to their exact neutral positions and that the first and second neutral position return mechanism are mounted on the same side of the common housing.

Giere teaches for a pump unit with a housing 1,2, a variable displacement type hydraulic pump 11 including a pump shaft 17 which has a rotating shaft center, a control shaft 33 designed for controlling the input/output flow rates of the hydraulic pump 11, a neutral position return mechanism 15 for urging the control shaft in such a direction as to return the hydraulic pump 11 to a neutral position thereof and that there is an adjusting mechanism 45 for adjusting the hydraulic pump 11 to its exact neutral position and that the neutral position return mechanism 15 is mounted on the side of the housing for the purposes of maintaining tolerance sensitivity of the pump unit. See Giere col. 1, lines 38-43 and col. 4, line 41 – col. 5, line 43.

Since Giere and Ishii are both pump units of the variable displacement type with control shafts, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the pump unit of Ishii, based on the teachings of Giere, to have

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adjusting mechanisms for adjusting the first and second hydraulic pumps respectively to their exact neutral positions and the first and second neutral position return mechanisms mounted on the same side of the common housing for the purposes of maintaining tolerance sensitivity of the pump unit.

Allowable Subject Matter

Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The improvement comprises the first and second neutral position return mechanisms being disposed on a common base plate detachably mounted on the same side of the common housing.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of three patents.

Hauser et al. (6,122,996), Okada (5,094,077), and Wetor (4,955,249) are cited to show neutral return mechanisms mounted on the housing.

Conclusion

This is a continuation of applicant's earlier Application No. 10/166,770. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the

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earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

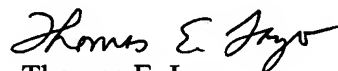
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas E. Lazo
Primary Examiner
Art Unit 3745
April 6, 2006